

Mandates of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination; the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence

REFERENCE:
AL OTH 46/2020

4 June 2020

Dear Mr. Walker,

We have the honour to address you in our capacities as Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination; Working Group on the issue of human rights and transnational corporations and other business enterprises; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, pursuant to Human Rights Council resolutions 42/9, 35/7, 36/6, 35/15, 34/19 and 36/7.

We are sending this letter under the communications procedure of the Special Procedures of the United Nations Human Rights Council to seek clarification on information we have received. Special Procedures mechanisms can intervene directly with Governments and other stakeholders (non-state actors) on allegations of abuses of human rights that come within their mandates by means of letters, which include urgent appeals, allegation letters, and other communications. The intervention may relate to a human rights violation that has already occurred, is ongoing, or which has a high risk of occurring. The process involves sending a letter to the concerned actors identifying the facts of the allegation, applicable international human rights norms and standards, the concerns and questions of the mandate-holder(s), and a request for follow-up action. Communications may deal with individual cases, general patterns and trends of human rights abuses, cases affecting a particular group or community, or the content of draft or existing legislation, policy or practice considered not to be fully compatible with international human rights standards.

In this connection, we would like to bring to your attention information we have received concerning the apparent links between Saladin Security Ltd. and Keenie Meenie Services Ltd, and the role reportedly played by the latter in violations of international humanitarian law and international human rights law alleged to had been committed during the armed conflict in Sri Lanka between 1984 and 1988, as well as the related lack of accountability and remedies for victims.

Mr. David John Walker,
Company director
Saladin Security Limited
39 Thurloe Place, London, England, SW7 2HP

According to the information received:

Saladin Security Ltd. is listed by the United Kingdom Companies House under registration number 01369559 as a company incorporated on 19 May 1978 and as providing private security activities. According to its website (<https://www.saladin-security.com/>), Saladin Security has provided security services worldwide, including in high risk areas, and has worked extensively in Africa and the Middle East. Presently, the company also maintains a presence in Afghanistan, Ghana, Kenya, South Sudan, and the United Arab Emirates.

Until 24 November 2018, Saladin Security was registered at the same address as the London office of Keenie Meenie Services Ltd. (KMS), a private military and security company that provided military training and other forms of military support to Sri Lanka military and security forces, notably the Special Task Force, between 1984 and 1988. In 2015, the website of Saladin Security Ltd. referred to KMS as Saladin's "predecessor". Over the years, the two companies also shared several of the same directors, including one of the current directors of Saladin Security. A letter on paper with a Saladin Security letterhead that was sent in 2017 to the then chief of the Sri Lankan Special Task Force states that Saladin Security was the successor company of KMS that had earlier worked with the Special Task Force. It is reported that KMS personnel now active at Saladin Security visited Sri Lanka on several occasions, including between 1985 and 1987, when they were involved in recruiting KMS pilots assigned to work with the Special Task Force.

From 1984 to 1988, KMS deployed personnel with varying roles and responsibilities to provide services to the then Government of Sri Lanka during a period of armed conflict between Sri Lanka and the Liberation Tigers of Tamil Eelam (LTTE), during which serious violations of international humanitarian law and international human rights law were allegedly committed by both sides.

Over these four years, KMS personnel provided military training to approximately 120 new commandos of the Special Task Force every 12 weeks, including on the use of weapons. During this period, the Special Task Force is alleged to have committed numerous violations of international humanitarian law and international human rights law, including: killing of civilians, summary executions, mass arrests, enforced or involuntary disappearances, burning and looting of property, and forced displacement.

While the specific role of KMS in these alleged violations is unknown, the company was increasingly active in providing military training and support to the Special Task Force. Over the years, its support expanded to other parts of the Sri Lankan military and security apparatus, and the roles it took on increasingly appear to have gone beyond strengthening operational capability to encompass senior policy-making and advice, with indications that KMS personnel may have had some level of command responsibility at specific times.

It is alleged that by March 1985, KMS personnel were assigned senior roles in Sri Lanka's military apparatus in relation to military operations and military intelligence, and that KMS reviewed Sri Lanka's military command structure. Over the years, KMS employees were assigned to, *inter alia*: advise Sri Lanka's National Intelligence Bureau; provide sniper training the army commando regiment; train naval land units; and an employee was also embedded with the Joint Operations Command.

In addition, as of late 1985, KMS personnel were piloting helicopter gunships in Sri Lanka. Also from late 1985, there were allegations that helicopter attacks were resulting in violations of international humanitarian law and international human rights law. It appears that KMS pilots primarily served as co-pilots. In May to June 1986, a KMS employee regularly co-piloted an armed helicopter, including during operations in which civilians were allegedly killed. In one such incident brought to our attention, on 7 June 1986, a KMS employee co-piloted a helicopter from which it is alleged that the door gunner shot at a bus suspected to carry LTTE combatants as well as civilians. The door gunner allegedly continued to fire as men, women and children fled from the bus. Local sources reported that the incident resulted in the deaths of two civilians while two others were wounded.

In other instances, a KMS employee was said to be the main pilot. It is reported that, on 20 June, a KMS employee took control of a helicopter mid-flight and taught the door gunners how to fire 1,000 bullets at LTTE combatants below them at Tondamanna, on the northern coastline, during which 12 combatants were killed.

It appears that no investigations were initiated by the United Kingdom or Sri Lanka into the role of KMS during the period of armed conflict between 1984 and 1988. There is no information available on steps taken by KMS with respect to holding those responsible for the above allegations to account or to provide remedies to victims.

While we do not wish to prejudge the accuracy of these allegations, we express our **concern about the lack of adequate due diligence measures to ensure non-repetition of human rights abuses in current operations, in light of the apparent close links between KMS and Saladin Security, including at the highest managerial level.** This is of utmost importance given that Saladin Security is operating in areas affected by armed conflict in which there are heightened risks of gross human rights abuses.

We wish to draw your attention to the responsibility of all business enterprises to respect human rights and the related responsibility to carry out human rights due diligence in order to identify, prevent, mitigate and account for how they address their impacts on human rights. In this respect, we note that the apparent links between KMS and Saladin Security raise questions regarding the measures taken by the latter to ensure respect for human rights and international humanitarian law in all its operations,

including by putting in place safeguards for the non-repetition of the violations and abuses allegedly committed and facilitated by KMS in Sri Lanka.

We wish to further stress that appropriate selection, vetting and training of personnel represent one of the many tools available to business companies to exercise human rights due diligence. The Working Group on the use of mercenaries has repeatedly recalled the need for vetting of past human rights records of personnel and their training on international human rights and international humanitarian law standards (see for example A/74/24). These safeguards, as well as overall respect for human rights and international humanitarian law, are also emphasized by relevant international multi-stakeholder initiatives. In particular, the International Code of Conduct Association, of which Saladin Security is a member, requires compliance with human rights and international humanitarian law standards.

In connection with the above allegations and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites relevant international human rights norms and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Kindly explain the relationship between KMS and Saladin Security, including as regards to management and ownership structures.
3. Please provide detailed information regarding human rights due diligence policies and processes put in place by your company to identify, prevent, mitigate and account for how the company addresses potential and actual impacts on human rights caused or contributed to through the company's activities, or directly linked to the company's operations or services by the company's business relationships. In particular, please provide specific information on whether heightened human rights due diligence is exercised in high-risk operating environments, such as conflict-affected areas.
4. Please also indicate how Saladin Security tracks the effectiveness of its measures to prevent and mitigate adverse human rights impacts, including through consultation with affected stakeholders.
5. Please describe selection, vetting and training requirements in place for Saladin Security personnel and how these are implemented, including with respect to personnel previously associated with KMS.

6. Please highlight the steps that Saladin Security is taking, or is considering taking, to ensure non-repetition of past alleged violations and abuses considering the apparent links with KMS.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from Saladin Security will be made public via the communications reporting website. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary measures be taken to investigate the allegations raised above.

Please note that letters expressing related concerns were sent to the Governments of Sri Lanka and the United Kingdom.

Please accept, Sir, the assurances of our highest consideration.

Chris Kwaja

Chair-Rapporteur of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

Githu Muigai

Chair-Rapporteur of the Working Group on the issue of human rights and transnational corporations and other business enterprises

Luciano Hazan

Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Agnes Callamard

Special Rapporteur on extrajudicial, summary or arbitrary executions

Nils Melzer

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Fabian Salvioli

Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence

Annex

Reference to international human rights law

In connection with the above-mentioned allegations and concerns, we would like to draw the attention of Saladin Security to the relevant international norms and standards.

As set forth in the United Nations Guiding Principles on Business and Human Rights, which were unanimously endorsed by the Human Rights Council in its resolution (A/HRC/RES/17/31), all business enterprises have a responsibility to respect human rights. The responsibility to respect human rights is a global standard of expected conduct for all business enterprises wherever they operate. It exists independently of States' abilities and/or willingness to fulfil their own human rights obligations, and does not diminish those obligations. Furthermore, it exists over and above compliance with national laws and regulations protecting human rights.

The Guiding Principles have identified two main components to the business responsibility to respect human rights. This requires that “business enterprises: (a) Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur; [and] (b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts” (Guiding Principle 13).

Principles 17-21 lay down a four-step human rights due diligence process that all business enterprises should take to identify, prevent, mitigate and account for how they address their adverse human rights impacts. Key features of human rights due diligence and emerging good practices are elaborated in a recent report of the Working Group on the issue of human rights and transnational corporations and other business enterprises (A/73/163). This for example includes the need for business enterprises to exercise heightened human rights due diligence “in high-risk operating environments” (ibid, para 14(c)).

To fulfil their responsibility to respect human rights, Principle 15 outlines that business enterprises should have in place “processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute”. Principle 22 further provides that when “business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes”.

Principles 25 to 31 provide guidance to business enterprises and States on steps to be taken to ensure that victims of business-related human rights abuse have access to effective remedy. In particular, Principle 29 states that “[t]o make it possible for grievances to be addressed early and remediated directly, business enterprises should establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted”. Moreover, as underlined in the commentary to Guiding Principle 29, operational-level grievance mechanisms should reflect certain criteria to ensure their effectiveness in practice (as set out in Guiding Principle 31) and they should not be used to preclude access to judicial or other non-judicial grievance mechanisms.

More specifically related to the provision of private security, voluntary initiatives, such as the International Code of Conduct, outline standards to help companies comply with their human rights responsibilities. By joining the International Code of Conduct Association (ICoCA), ICoCA “transitional member companies” undertake to meet substantive benchmarks based on the standards set out in the International Code of Conduct (art. 3.3.1.2.3 of the Articles of Association). Within a certain timeframe, “transitional member companies” are required to become “certified member companies” confirming that a company’s systems and policies meet the principles and standards recognised in the International Code of Conduct and that “a company is undergoing monitoring, auditing, and verification, including in the field” (art. 11 of the Articles of Association).

The International Code of Conduct reflects the recognition by companies of their “responsibility to respect the human rights of, and fulfil humanitarian responsibilities towards, all those affected by their business activities” (para 4). It further contains specific commitments regarding management and governance of companies, including standards in relation to the selection and vetting of personnel (paras 45 – 49) and of subcontractors (paras 50 – 51), as well as the training of personnel on applicable international laws, including international human rights law and international humanitarian law (para 55).

Finally, by joining the International Code of Conduct, companies endorse the principles of the *Montreux Document on Pertinent International Legal Obligations and Good Practices for States Related to Operations of Private Military and Security Companies During Armed Conflict* (paras 2-3), which reflects well-established rules of international law and recalls the obligations of the personnel of private military and security companies to comply with international humanitarian law or human rights law imposed upon them by applicable national law.

We further highlight that the definition of an enforced disappearance includes cases where individuals were arrested, detained or abducted against their will or otherwise deprived of their liberty by organized groups or private individuals acting on behalf of, or with the support, direct or indirect, consent or acquiescence of the Government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law (preamble of the Declaration on the Protection of all Persons from Enforced Disappearance). Furthermore, acts constituting enforced disappearance shall be considered a continuing offence as long as the perpetrators continue to conceal the fate and the whereabouts of persons who have disappeared and these facts remain unclarified (article 17 of the Declaration).